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## India

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### 2017 Amendments to Legal Metrology Rules

**Report Categories:**

Sanitary/Phytosanitary/Food Safety

Exporter Guide

Beverages

Food Processing Ingredients

Food and Agricultural Import Regulations and  
Standards - Narrative

Fresh Fruit

Tree Nuts

Retail Foods

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**Report Highlights:**

On June 23, 2017, the Government of India (GOI) amended the Legal Metrology (LM) (packaged commodities) Rules, 2011 and published in the Official Gazette of India. This is 2017's first amendment to Legal Metrology Rules. A consecutive notification related to the same subject was also published on July 4, 2017 to explain the impact of goods and service tax (GST) on the unsold stock of pre-packaged commodities.

## General Information:

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The GOI, Department of Consumer Affairs published amendments to the [Legal Metrology \(packaged commodities\) Rules, 2011](#) in the Official Gazette of India. Earlier on December 19, 2016, the same amendments were published as draft and comments were invited from stakeholders. The enforcement date mentioned in the December notification has been extended until January 1, 2018, in the current Gazette notification of June, 2017. There are no major revisions between the draft and final amendment. The primary amendments of the LM Rules were listed in GAIN [IN7001](#). It is recommended that interested parties who reviewed the December draft document should also review the June, 2017 final notification.

A successive notification on the same subject was published on July 4, 2017, relating to the change in the maximum retail price (MRP) and its display on the labels of packaged commodities. According to this notification, the manufacturers, packers or importers of pre-packaged commodities are allowed to declare the changed retail sales prices on the unsold stock of products manufactured, packed or imported before the GST implementation date of July 1, 2017. This includes the increased amount of tax due to GST if any, in addition to the existing retail sales price, for three months starting July 1, 2017, until September 30, 2017. The declaration of the changed MRP will be allowed through stamping or pasting a sticker or online printing, as the case may be, and the following conditions are mandatory to comply with.

- (i) The difference between the retail sale price originally printed on the package and the revised price shall not be higher than the extent of increase in the tax if any, or in the case of imposition of fresh tax, such fresh tax, on account of implementation of GST Act and Rules.
- (ii) The original MRP shall continue to be displayed and the revised price shall not overwrite on it.
- (iii) Manufacturers, packers or importers shall make at least two advertisements in one or more newspapers and also issue circulars to the LM Department and dealers indicating the change in the price of such packages.

The manufacturer, packer or the importer could use the packaging material lying in stock before July 1, 2017 only up to September 30 or until the date the packaging material is exhausted, whichever is earlier.

Amendments in Rule 2, 3, 6, 7, 18, 19, 20, 26, 32, and in the second, fifth, sixth and seventh Schedule as per the current notification is pasted below for readers' convenience. The two notifications mentioned above can be accessed at the links below.

[Legal Metrology \(Packaged Commodities\) Amendment Rules, 2017](#)

[July 4, 2017 Notification](#)

## Rule 2:

(i) after clause (a), the following clause shall be inserted, namely:-

‘(aa) “Consumer” shall have the same meaning as assigned to it in clause (d) of sub-section (1) of section 2 of the Consumer Protection Act, 1986 (68 of 1986);’;

(ii) for clause (bc), the following clause shall be substituted, namely:-

‘(bc) “institutional consumer” means the institution which buys packaged commodities bearing a declaration ‘not for retail sale’, directly from the manufacturer or from an importer or from wholesale dealer for use by that institution and not for commercial or trade purposes;’;

(iii) after clause (bc), the following clauses shall be inserted, namely:-

‘(bd) “E-commerce” means buying and selling of goods and services including digital products over digital and electronic network;

(be) “E-commerce entity” means a company incorporated under the Companies Act, 1956 or the companies Act, 2013 or a foreign company covered under clause (42) of section 2 of the Companies Act, 2013, or an office, branch or agency in India covered under sub-clause (ii) of clause (v) of section 2 of the foreign Exchange Management Act, 1999 (42 of 1999) owned or controlled by a person resident outside India and conducting e-commerce business;

(bf) “marketplace based model of e-commerce” means providing of an information technology platform by an e-commerce entity on a digital and electronic network to act as a facilitator between buyer and seller;’;

(iv) for clause (m), the following clause shall be substituted, namely:-

‘(m) “retail sale price” means the maximum price at which the commodity in packaged form may be sold to the consumer inclusive of all taxes;’;

### **Rule 3:**

“3. Application of Chapter.- The provisions of this chapter shall not apply to-

- (a) packages of commodities containing quantity of more than 25 kilogram or 25 litre;
- (b) cement, fertilizer and agricultural farm produce sold in bags above 50 kilogram; and
- (c) packaged commodities meant for industrial consumers or institutional consumers.”.

### **Rule 6:**

(i) in sub-rule (1).-

(a) in clause (a), for *Explanation III*, the following *Explanation* shall be substituted, namely:-

“Explanation III. - In respect of packages containing food articles, the provisions of this clause shall not apply, but the provisions of, and the requirements specified in the Food Safety and Standards Act, 2006 (34 of 2006) and the rules made thereunder shall apply;”;

(b) after clause (a), the following clause shall be inserted, namely:-

“(aa) The name of the country of origin or manufacture or assembly in case of imported products shall be mentioned on the package;”;

(c) after clause (d), the following clause shall be inserted, namely:-

“(da) If a package contains a commodity which may become unfit for human consumption after a period of time, the ‘best before or use by the date, month and year’ shall also be mentioned on the label:

Provided that nothing in this clause shall apply if a provision in this regard is made in any other law.

*Explanation.-* 1. For the purposes of this sub-rule,-

(a) the expression “best before” means the date which signifies the end of the period under any stated storage conditions during which the product shall remain fully marketable and shall retain any specific qualities for which tacit or express claims have been made and beyond the date commodity may still be safe for consumption;

(b) the expression “Use by Date” means the date which signifies the end of the estimated period under any stated storage conditions after which the product shall not have the quality attributes normally expected by the consumers and after this date, the commodity should not be regarded as marketable.”;

(d) in clause (e), after the words “the retail sale price of the package;”, the following words and figures shall be inserted, namely:-

“shall clearly indicate that it is the maximum retail price inclusive of all taxes and the price in rupees and paise be rounded off to the nearest rupee or 50 paise;

*Illustrations.-* for declaration of retail sale price:

(a) Maximum or Max. retail price Rs. or ₹ xx.xx (inclusive of all taxes), or

(b) Maximum or Max. retail price Rs. or ₹ xx.xx inclusive of all taxes, or

(c) MRP Rs. or ₹ xx.xx incl. of all taxes, or

(d) MRP Rs. or ₹ xx.xx (incl. of all taxes):”

(ii) after sub-rule (4), the following sub-rule shall be inserted, namely:-

“(4A) Nothing in this rule shall preclude a manufacturer or packer or importer to declare the following on the package, in addition to the mandatory declarations-

(a) Barcode or GTIN or QR Code;

(b) ‘e-code’ for net quantity assurance of the commodity and other required declarations, after obtaining the same in the manner as specified by the Central Government;

(c) logos of Government schemes, such as Swatch Bharat Mission, where such use is authorised by the Central Government.”;

(iii) after sub-rule (9), the following sub-rule shall be inserted, namely:-

“(10) An E-Commerce entity shall ensure that the mandatory declarations as specified in sub-rule (1), except the month and year in which the commodity is manufactured or packed, shall be displayed on the digital and electronic network used for e-commerce transactions:

Provided that in case of market place model of e-commerce, responsibility of the correctness of declarations shall lie with the manufacturer or seller or dealer or importer if,-

(a) the function of the e-commerce entity is limited to providing access to a communication system over which information made available by the manufacturer or seller or dealer or importer is transmitted or temporarily stored or hosted; or

(b) the entity does not-

- (i) initiate the transmission;
- (ii) select the receiver of the transmission; and
- (iii) select or modify the information contained in the transmission;

(c) the entity observes due diligence while discharging its duty as an intermediary under the Information Technology Act, 2000 and also observes such other guidelines as the Central Government may prescribe in this behalf:

Provided further that there shall not be any protection to the market place e-commerce entity if,-

(a) the entity has conspired or abetted or aided or induced, whether by threats or promise or otherwise in the commission of the unlawful act;

(b) upon receiving actual knowledge, or on being notified by the appropriate Government or its agency that any information, data or communication link residing in or connected to a computer resource controlled by the entity is being used to commit the unlawful act, the entity fails to expeditiously remove or disable access to that material on that resource without vitiating the evidence in any manner.

*Explanation.-* For the removal of doubts it is hereby clarified that the provision of this sub -rule shall not provide exemption from the declarations required to be made under these rules on pre-packaged commodities delivered to the consumers.”.

## Rule 7:

(i) for sub-rule (2), the following sub-rule shall be substituted, namely:-

“(2) The height of any numeral and letter in the declaration required under these rules shall be as per Table-I.”;

(ii) for sub-rule (3) , the following sub-rule shall be substituted, namely:-

“(3) The width of the letter or numeral shall not be less than one third of its height ,except in the case of numeral “1” and letters (i), ( I) and (*l*);”.

(iii) For the Table-I, the following table shall be substituted, namely:-

“Table-I			
Serial Number	Area of Principal display panel in square centimeters (A)	Minimum height of numerals and letters in millimeters	Minimum height of numerals and letters when blown, formed or molded on surface of container in millimeters
	(1)	(2)	(3)
1	$A \leq 50$	1.0	1.5
2	$50 < A \leq 100$	1.5	3.0
3	$100 < A \leq 500$	2.5	4.0
4	$500 < A \leq 2500$	4.0	6.0
5	$2500 < A$	6.0	6.0”;

(iv) Table II shall be omitted;

(v) for sub-rules (4) and (5), the following sub-rules shall respectively, be substituted, namely.-

“(4) The area not including the top, bottom, flange at top and bottom of cans, and shoulders and neck of bottle and jars shall be determined in the following manner, namely:-

(a) in the case of a rectangular package, where one entire side can properly be considered to be the principal display panel side, the product of the height multiplied by the width of that side;

(b) in case of a cylindrical or nearly cylindrical package, 40 per cent. of the product of the height of the package multiplied by the circumference;

(c) in case of any other shaped package, 40 per cent. of the total surface of the package, or an area considered to be a principal display panel of the package.

(5) Except size of the numbers and letters for declaring net weight, retail sale price, date of expiry or best before or use by date (wherever and as applicable) and consumer care details, the provisions under sub-rules (1) to (4) shall not apply to a package if the information to be specified on such package under this rule is also required to be given by or under any other law for the time being in force.”.

6. In the said rules, in rule 9, in sub-rule (3), the following proviso shall be inserted, namely,-

“Provided that no such declarations on the inner package is required, if the outer package contains all declarations required under these rules.”.

7. In the said rules, in rule 10, in the sub-rule 1,-

(i) in the first proviso for the figures, words and letters “5 cubic cm or less”, the figures, words and letters “10 cubic cm or less” shall be substituted;

(ii) the *explanation* shall be numbered as *Explanation 1* thereof, and after the *Explanation*, as so numbered the following *Explanation* shall be substituted, namely:-

“Explanation 1.- In this sub-rule, 'complete address' means, the postal address at which the factory is situated or company or firm is registered, and, in any other case, the name of the street, number (if any) assigned to the premises of the manufacturer or packer or importer and the name of the city and State where the business is carried on by the manufacturer or packer or importer and the Postal Index Number [PIN] Code so that a consumer can identify and locate the manufacturer or packer or importer, as the case may be.”.

## **Rule 18:**

(i) after sub-rule (1), the following sub-rule shall be inserted, namely:-

“(1A) The wholesale dealer shall be allowed to sell the pre-packaged commodities directly to the industrial and institutional consumers.”.

(i) after sub-rule (2), the following sub-rule shall be inserted, namely:-

“(2A) Unless otherwise specifically provided under any other law, no manufacturer or packer or importer shall declare different maximum retail prices on an identical pre-packaged commodity by adopting restrictive trade practices or unfair trade practices as defined under clause (c) of sub-section (1) of section 2 of the Consumer Protection Act, 1986 (68 of 1986).



## Rule 19:

9. In the said rules, in rule 19,-

(a) in sub rule (4),-

(i) in clause (a), for the words “the statistical average”, the words “the corrected average” shall be substituted;

(ii) for clause (b), the following clauses shall be substituted, namely:-

“(b) the number of packages that show an error in deficiency exceeding the maximum permissible error is greater than that shown in column 4 of Table under Fifth Schedule; or

(c) any such package shows an error in deficiency exceeding twice the maximum permissible error;

(d) the Director, Controller or the Legal Metrology Officer shall require the manufacturer or packer to make a cent per cent check of the packages contained in the lot and authorise sale, distribution or delivery of only such packages with error in deficiency in the net quantity less than the maximum permissible error and the remaining packages shall be allowed to be sold distributed or delivered by the manufacturer or packer after it has been repacked or relabeled, as the case may be, so as to comply with the provisions of the Act and these Rules.”

(b) sub-rule (5) shall be omitted.

(c) for sub-rule (6), the following sub-rule shall be substituted, namely:-

“(6) A lot of packages shall be approved for sale if as a result of the test carried out under this rule, it is found that-

(a) the corrected average net quantity of the sample packages is equal to or more than the declared net quantity;

(b) the number of packages that show an error in deficiency exceeding the maximum permissible error is not more than that shown in column 4 of the Table under Fifth Schedule;

(c) no package shows an error in deficiency exceeding twice the maximum permissible error;

(d) every package bears thereon or on a label affixed thereto the declarations required to be made under these rules.”.

## Rule 20:

10. In the said rules, for rule 20, the following rule shall be substituted, namely:-

“20. Action to be taken on completion of inspection of packages at the premises of the manufacturers or the packer.- (1) If it appears from the report referred to in sub-rule (3) of rule 19 that,-

(a) the corrected average net quantity contained in the packages drawn as samples is lesser than the quantity declared on the package or the label affixed thereto; or

(b) any such packages showing an error in deficiency exceeding the maximum permissible error is greater than the number specified in column 4 of the Table in the Fifth schedule; or

(c) any package has error in deficiency exceeding twice the maximum permissible error; or

(d) any such package does not bear thereon or on label affixed thereto the declarations to be made under these Rules;

the Director, Controller, or the Legal Metrology Officer shall take following action, namely:-

(i) seize the packages drawn by him as samples and take adequate steps for the safe custody of the seized packages until they are produced in the appropriate court as evidence;

(ii) based on the evidence initiate action for violations as per the provisions of the Act and these rules.

(2) The disposal of the seized packages shall be done in accordance with the provisions of the Code of Criminal Procedure, 1973(2 of 1974).”.

## Rule 26:

(i) for clause (c), the following clause shall be substituted, namely:-

“(c) it contains scheduled formulations and non-scheduled formulations covered under the Drugs (Price Control) Order, 2013 made under section 3 of the Essential Commodities Act, 1955 (10 of 1955):

Provided that no exemption shall be applicable to medical devices declared as drugs.”.

(ii) clause (d) shall be omitted.

## Rule 32:

12. In the said rules, for rule 32, the following rules shall be substituted, namely:-

“32. Fine for contravention of rules.-

Whoever contravenes any provisions of these rules, for which no punishment is provided, shall be punished with fine of five thousand rupees.

32A. Sum of compounding of offences.- The sum of compounding of offences committed under the Act shall be as specified in the following Table, namely:—

**TABLE**

Sr. No. (1)	Offence (2)	Compounding amount (3)	
		If the application for compounding is by retailers or wholesale dealers	If the application for compounding is by manufacturers or importers
1.	Contravention of section 29	Rupees two thousand	Rupees ten thousand
2.	Contravention of sub-section (1) of section 36	Rupees five thousand	Rupees twenty five thousand
3.	Contravention of sub-section (2) of section 36	Rupees ten thousand	Rupees fifty thousand

13. In the said rules, in the Second Schedule, in column (3), against serial number 10, after figures and letter, “500g”, the figures and letters “550 g, 600 g, 650 g” and after figures and letters, “500ml”, the figures and letters “550 ml, 600 ml, 650 ml” shall respectively, be inserted.

## Second Schedule:

13. In the said rules, in the Second Schedule, in column (3), against serial number 10, after figures and letter, “500g”, the figures and letters “550 g, 600 g, 650 g” and after figures and letters, “500ml”, the figures and letters “550 ml, 600 ml, 650 ml” shall respectively, be inserted.



## Fifth Schedule:

14. In the said rules, in the Fifth Schedule,-

(i) in item 1, for the Table, the following Table shall be substituted, namely:-

“

Serial number	Inspection lot size (1)	Sample size (n) (2)	Correction factor ( C ) (3)	Number of packages showing an error more than the maximum permissible error but less than twice the maximum permissible error (4)
1.	100 to 500	50	0.379	3
2.	501 to 3200	80	0.295	5
3.	More than 3200	125	0.234	7”.

## Sixth Schedule:

15. In the said rules, in the Sixth Schedule, in Part-II, after item no 7, the following items shall be inserted, namely:-

### “8. Determination of mean or average net quantity or net volume.-

After determining the individual values of net quantity or net volume or length or number of the commodity contained in the package, as per the procedure outlined in item numbers 3 to 6 of this Part, the mean or average value shall be calculated by summing up the individual values ( $x_i$ ) and dividing it by the number of sample packages (n) taken for testing, by the formula-

Average Net value ( $\bar{X}$ ) =  $\sum x_i / n$  .

### 9. Determination of Standard deviation of values.-

The standard deviation ( $\sigma$ ) of individual values [ $x_i$ ] is determined by the formula -

$$\sigma = \sqrt{\frac{1}{n-1} \sum (x_i - \bar{X})^2} ; \text{ where ,}$$

$x_i$  = individual values of net quantity or net volume or length or number ,

$\bar{X}$  = average or mean value of net quantity or net volume or length or number.

### 10. Corrected average net quantity or net volume.-

The corrected average net quantity  $X_c$  is determined from the value of average net quantity [ $\bar{X}$ ] by using the formula –

$$X_c = \bar{X} + (\sigma \times C), \quad \text{where C is the correction factor.”}$$

## Seventh Schedule:

16. In the said rules, in the Seventh Schedule,-

(a) in Form A, in row B, relating to the commodity Classification, for the existing entries in column (2), the following entries in column (2) the following entries be substituted, namely:-

“Lot size:                      Sample size:                      Maximum permissible error (g)”

(b) in Form B, in row B relating to the commodity Classification, for the existing entries in column (2), the following entries be substituted, namely:-

“Lot size:                      Sample size:                      Maximum permissible error”